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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,817	10/05/2000	Mary M. Ponthan	19420/101/101	2416

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EXAMINER

TRAN, LOUIS B

ART UNIT PAPER NUMBER

3721

DATE MAILED: 03/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/680,817

Applicant(s)

PONTAN ET AL.

Examiner

Louis B Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-26 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-26, 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This action is in response to applicant's amendment, Paper No. 10, received on 1/17/2003. Applicant's cancellation of claims 1-22 and 27 in Paper No. 10 is acknowledged.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 28, 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Guglielmi (1,575,263).

With respect to claims 28, Guglielmi anticipates creating a character effigy comprising the steps of providing an item which is flexible and substantially planar, defining a character feature at a location of the item representative of only head characteristics and manipulating the flexible and substantially fully planar item between a generally planar configuration and a non-planar configuration, wherein when the item is in the generally planar configuration, it serves a practical function and when it is in the non-planar configuration, it simulates the body of the character effigy with the character feature positioned appropriately with respect to the body formed by the item to simulate the character's head as discussed in Guglielmi on page 1 column 2, lines 103- page 2, column 1, lines 1-30 and seen in Figures 1 and 2.

With respect to claim 23, Guglielmi anticipates providing an item having first and second surfaces and at least first, second and third edges, and wherein said character feature is defined on said first surface as in Figure 2.

With respect to claim 24, Guglielmi anticipates wherein the step of manipulating is accomplished by folding said item to simulate the body of the character effigy as in column 1, page 2, lines 20-30.

With respect to claim 25, Guglielmi anticipates the step of manipulating being accomplished by rolling said item to simulate the body of the character effigy as seen in Figure 1.

With respect to claim 26, Guglielmi anticipates wherein the step of manipulating is accomplished by folding and rolling said item to simulate the body of the character effigy as seen in Figure 1 and described in column 1, page 2, lines 20-30.

4. Claims 28, 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Ming (5,172,440).

With respect to claims 28, Ming anticipates creating a character effigy comprising the steps of providing an item which is flexible and substantially planar, defining a character feature at a location of the item representative of only head characteristics 31 and manipulating the flexible and substantially fully planar item between a generally planar configuration and a non-planar configuration (open bag and closed bag positions), wherein when the item is in the generally planar configuration, it serves a practical function and when it is in the non-planar configuration, it simulates the body of the character effigy with the character feature positioned appropriately with respect to

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the body formed by the item to simulate the character's head as discussed in Ming in column 2, lines 42-57 seen in Figures 8 and 9.

With respect to claim 23, Ming anticipates providing an item having first and second surfaces and at least first, second and third edges, and wherein said character feature is defined on said first surface as in Figure 8.

With respect to claim 24, Ming anticipates wherein the step of manipulating is accomplished by folding said item to simulate the body of the character effigy as in column 2, lines 42-57.

With respect to claim 25, Ming anticipates the step of manipulating being accomplished by rolling said item to simulate the body of the character effigy as seen in Figures 8 and 9.

With respect to claim 26, Ming anticipates wherein the step of manipulating is accomplished by folding and rolling said item to simulate the body of the character effigy as in column 2, lines 42-57.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are Henegar et al., Chu et al., Holt, Heftel et al., and White.

6. Applicant's remarks have been fully considered but are deemed non-persuasive. Applicant contends that the Guglielmi specification defines a face that is **built out** or raised from the body by a means of a backing or filling therefore the planar portion is not

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manipulated to form a body, rather, the planar portion is an appendage to the pre-stuffed body doll. Applicant's remarks are well taken and fully understood.

However, Examiner draws applicant's attention to page 2, lines 20-30 where Guglielmi states, " In addition to the foregoing uses and purposes, when the body is folded on itself and the folds secured together by means of the ribbon 11 the article can be used and fondled by children as a doll. To them, the entire article is a doll."

Clearly, after manipulation or folding the item is now characterized as a doll because the folding effect forms a body behind the stuffed portion of the doll as seen in Figure 1. Moreover, Guglielmi teaches folding within the specification and rolling is shown in Figure 1. Applicant is drawn to the Mills reference (4,739,529), column 1, lines 34-40, where Mills describes the invention of Guglielmi as "rolled up".

Moreover, clearly, in the general area of item 3 of Figure 1, Guglielmi shows features of a face only. In response to applicant's tacit argument that Guglielmi includes additional structure not required by Applicant's invention, it must be noted that Guglielmi discloses the invention as claimed. The fact that it discloses additional structure not claimed is irrelevant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

lbt  
February 21, 2003

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal flourish extending to the right.

**Rinaldi I. Rada**  
Supervisory Patent Examiner  
Group 3700